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November 1, 2013

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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

RE: WC Docket No. 12-375 (Rates for Interstate Inmate Calling Services)

Dear Madam Secretary:

We are writing you today concerning the Order and Further Notice of the Proposed Rule Making released by the Federal Communications Commission on September 26, 2013.

We are disappointed and concerned with the FCC's Order and feel that it has established arbitrary rules and that it fails to take into account the challenges that jails face in our best efforts at providing telephone use to inmates.

In our opinion, the interim "safe harbor" rate caps of \$0.12 per minute for debit and prepaid calls and \$0.14 per minute for collect calls in all jails, prisons and immigration detention centers does not take into account the fundamental differences each type and size of facility faces and the costs associated with those differences.

The proposed rates appear to be based on the Commission's consideration of data submitted by a coalition of inmate calling service (ICS) providers in 2008, combined with selected subsequent submissions by individual providers and arguments by inmate activists. This data is not comprehensive, however, and establishing such rate caps without comprehensive data is, in our opinion, premature.

Further exacerbating the harm, the Order prohibits any revenue recovery in the rates by jails of the costs associated in administering inmate calling services and monitoring phone calls to protect the public. We are disappointed that the Commission, despite recognizing that jails incur costs in providing inmates the ability to make calls, has prohibited jail administrators from recovering those costs. If jails cannot recover their costs they will have no choice but to limit the availability of telephone service.

In this regard, the Commission has failed to appreciate the complex and specialized environment in which inmate calling services are offered. ICS today cannot be

nearly always customized to the needs of a particular facility; the service is often fully integrated with facility commissary systems; individual calls are carefully managed and controlled; and the service integrates specific technological measures required by jails to ensure facility security and public safety. In its haste to pursue the laudable goal of ensuring that the price of the individual calls to consumers is as low as possible, the Commission has adopted a “one-size-fits-all” common carrier approach that ignores the realities of how ICS is provided today.

Jail facilities of all sizes must balance the needs of inmates carefully against the need to protect the public, jail staff and the inmate population. Inmate calling services therefore include security components that have consistently been able to detect criminal activity occurring inside correctional facilities. The importance of these security components cannot be overstated. However, the Order establishes such unreasonably low rates that it places these systems at risk and, consequently, undermines the ability of law enforcement to detect and deter criminal activity.

The Commission’s “one-size-fits-all” approach is especially harmful for inmate calling services in jails. Jails and prisons serve unique populations within corrections and have distinct operational characteristics. Perhaps most relevant is the fact that jails see a significantly higher rate of population turnover as compared to prisons—a fact that Commissioner Pai noted in his dissent. The smaller size of most jails coupled with the high turnover rates means that jails must charge more per minute in order to recover the costs of providing inmate calling services. The Order disregards these realities, imposing unrealistically low rate caps that practically ensure that ICS providers will not be able to recover their costs in smaller, higher cost facilities. We believe that the Order, if implemented, will substantially disrupt and hinder the ability of jails to continue to provide telephone services for inmates. We, therefore, support a tiered rate system for jails, depending on size. In addition, we agree with Commissioner Pai that jails and prisons should be viewed differently and rates should reflect those differences.

In closing, we do not oppose ICS reform, including reasonable regulation of ICS rates and fees that inflate the cost to the consumer. However, any such reform must fully consider the critical public safety aspects of ICS, the individualized environment in which services are offered, and the full impact on safety and security of any particular regulatory approach.

Sincerely,



Esteban M. Gonzalez
President



Robert J. Kasabian
Executive Director